

**Filed 9/20/02 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2002 ND 150

Keith O. Andes,

Plaintiff and Appellant

v.

Billy G. Brogdin and
PC Transport, Inc.,

Defendants and Appellees

No. 20020047

Appeal from the District Court of Bowman County, Southwest Judicial District, the Honorable Allan L. Schmalenberger, Judge.

AFFIRMED.

Per Curiam.

T.L. Secrest, Secrest Law Firm, P.O. Box 430, Hettinger, ND 58639-0430, for plaintiff and appellant.

Lyle W. Kirmis, Zuger Kirmis & Smith, P.O. Box 1695, Bismarck, ND 58502-1695, for defendants and appellees.

Andes v. Brogdin

No. 20020047

Per Curiam.

[¶1] Keith O. Andes appealed the trial court judgment dismissing his negligence suit against Billy Brogdin and PC Transport, Inc. Andes sued for the damages he incurred after encountering the scene of an accident involving Brogdin's overturned pup trailer, which was leaking a cloud of isobutane gas. The trial court found that Andes was 50 percent at fault based on his own negligent actions of driving so close to the accident after seeing the cloud from about one-half mile away and jack-knifing his semi tractor and trailer when he backed up in a panic. Andes contends his actions do not correspond to a finding of 50 percent contributory fault.

[¶2] Under N.D.C.C. § 32-03.2-02, the trial court dismissed Andes's action because it found his degree of fault equaled Brogdin's. We summarily affirm the trial court judgment under N.D.R.App.P. 35.1(a)(2).

[¶3] Gerald W. VandeWalle, C.J.
Carol Ronning Kapsner
Mary Muehlen Maring
William A. Neumann
Dale V. Sandstrom